IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11622 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

GAMBHIRSINGH A THAKOR

Appearance:

MR ASHISH M DAGLI for Petitioner

Mr.Biren Vaishnav for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 02/03/2001

ORAL JUDGEMENT

Rule. Service of rule is waived by learned advocate Shri Vaishnav appearing for the respondent.

2. By virtue of this petition the petitioner-Gujarat State Road Transport Corporation has challenged validity of the award dated 31.1.2000 passed by the Labour Court, Ahmedabad in Ref (IT) No.152/92. By virtue of said award punishment inflicted upon the respondent-Conductor has been reduced.

3. The facts giving rise to the present petition in a nutshell are as under:

(i) The respondent is working as a Conductor under the petitioner-employer. On 11.12.1988 while performing his duties as a Conductor, he had shown gross carelessness and as a result thereof one person had lost his life in an accident. It was the case of the petitioner that it was the duty of the respondent-Conductor to give an indication to the driver of the bus while driving the bus in reverse direction because very often in case of heavy vehicles, it is not possible for the driver to know whether there is any person on the back side of the bus.It was the case of the petitioner that the respondent did not perform his duties carefully and on account of his negligence when the driver was driving the bus in reverse direction an accident took place and, one person lost his life. Due to the said negligence shown by the respondent, departmental proceedings had been initiated and, ultimately, the respondent was punished and his three increments with future effect were stopped as a result of enquiry proceedings.

(ii) On 30.8.91 when the respondent was in charge of the bus, which was coming from Pratapgarh to Ahmedabad, the respondent-Conductor did not issue tickets to four passengers. For showing the said negligence, enquiry proceedings had been initiated and ultimately by way of punishment three increments with future effect had been stopped.

(iii) As the respondent was aggrieved by the above two punishments, he had raised a dispute and ultimately the matter was referred to the Labour Court. After hearing the concerned parties and, upon perusal of the record, the Labour Court had modified the orders of punishments. For the reasons recorded in the award, punishments have been reduced from stoppage of three increments with future effect to one increment with future effect in case of each inquiry.

4. I have heard Shri Ashish Dagli appearing for the petitioner and Shri Vaishnav appearing for the respondent. After hearing the concerned advocates and looking to the facts and circumstances in which the respondent was punished for the first offence referred to hereinabove, I do not see any reason for the Labour Court to interfere with the punishment. It is an admitted fact that the respondent-Conductor had shown negligence in performing his duties. He did not guide the driver

properly and as a result thereof an accident had taken place and one person lost his life. The defence of the respondent-conductor in enquiry proceedings was that there was heavy rush and because of the heavy rush, one person lost his life when the bus was driven in reverse direction. It was held in the enquiry proceedings that the respondent had not taken due care and had not guided the driver properly and as a result thereof an accident had taken place. Looking to the facts and circumstances of the case, in my opinion, the Labour court ought not to have interfered with the punishment inflicted upon the respondent and, therefore, the punishment inflicted upon the respondent with regard to first misconduct should remain as it is. The award is modified accordingly.

5. So far as the second incident is concerned, it appears from the award that there was some misunderstanding between the passengers and the respondent-Conductor and therefore four tickets were not issued to some passengers. It appears from the statements given by the passengers also that on account of some misunderstanding tickets were not issued to some of the passengers. It is also not in dispute that the respondent-Conductor had no dishonest intention to misappropriate the amount because no bus fare was collected by the respondent. In the circumstances, it was not proper on the part of the petitioner corporation to impose punishment of stoppage of three increments with future effect. In my opinion, the labour court has rightly interfered with the said punishment and has reduced the punishment.

6. In the result, the petition is allowed to the extent that the order of the labour court is modified and instead of stoppage of two increments with future effect, in all four increments shall be stopped with future effect. Rule is made absolute to the aforesaid extent with no order as to costs.

2.3.2001 (A.R.DAVE,J)